

## **EXHIBIT 133**

Page 1

1 CONFIDENTIAL - LEONG PENG TAN  
2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK  
4 Case No. 18-CV-01047 (PGG)

4 EIG ENERGY FUND XIV, L.P.,  
5 EIG ENERGY FUND XIV-A, L.P.,  
6 EIG ENERGY FUND XIV-B, L.P.,  
7 EIG ENERGY FUND XIV (CAYMAN), L.P.,  
8 EIG ENERGY FUND XV, L.P.,  
9 EIG ENERGY FUND XV-A, L.P.,  
10 EIG ENERGY FUND XV-B, L.P., and  
11 EIG ENERGY FUND XV (CAYMAN), L.P.,  
12 Plaintiffs.

13                           - against -  
14    KEPPEL OFFSHORE & MARINE LTD.,  
15                           Defendant.

16 \* \* \* CONFIDENTIAL \* \* \*

17 30(b)(6) DEPOSITION

18 VIA ZOOM VIDEOCONFERENCING

19 OF

20 KEPPEL OFFSHORE & MARINE LTD.

21 BY AND THROUGH  
22 LEONG PENG TAN

23 Thursday, July 15, 2021

24      Reported By:

## LINDA J. GREENSTEIN

25      JOB NO. 4662403

1           CONFIDENTIAL - LEONG PENG TAN

2 schooling; is that right?

3           A.       That's right.

4           Q.       And you've been with Keppel  
5 Offshore & Marine since then without any  
6 breaks; is that right?

7           A.       That's right.

8           Q.       And you've been employed by  
9 Keppel Offshore & Marine the entire time?

10          A.       That's right.

11          Q.       Did you join Keppel Offshore &  
12 Marine in 2002?

13          A.       That's the year I joined, yes.

14          Q.       Okay. Can you please walk me  
15 through the various positions you've held  
16 at Keppel Offshore & Marine starting with  
17 2002?

18          A.       You're saying the various  
19 position I held, right?

20          Q.       Yes, the various positions you  
21 held at Keppel Offshore & Marine since  
22 2002.

23          A.       I joined them as a graduate  
24 engineer and after that I become a project  
25 engineer, taking care of project, and

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2 engineering, I took care -- I'm responsible  
3 for the whole department of engineering,  
4 and of course as it is just now, the  
5 department of engineering, and we took care  
6 of all the technical aspects of the various  
7 products, of vessel that we actually build.

8           Q.        Okay. I'm just going to ask if  
9 you could slow down a little bit with your  
10 answers. I think I and the court reporter  
11 would appreciate that.

12          A.        Okay.

13          Q.        Mr. Tan, did you hold any  
14 positions with a Keppel entity named  
15 Fernvale at any point?

16          A.        Yes.

17          Q.        At what point and what position  
18 did you hold?

19          A.        I hold the position of -- as a  
20 deputy project director in the year 2012.

21          Q.        You took that position on in  
22 2012?

23          A.        Yes.

24          Q.        And what were your duties and  
25 responsibilities as the deputy project

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2 Brazil."

3           Do you see that, sir?

4           A. Yes.

5           Q. And the way that this bribe  
6 scheme worked was that Keppel Offshore &  
7 Marine secured the contract by paying a  
8 percentage of the price of the contract to  
9 Petrobras Sete; right, sir?

10          A. That what, paragraph 19 say?

11           "Knowingly and willfully  
12 conspired to pay, and paid, bribes in  
13 connection with 13" -- people -- "projects  
14 in Brazil."

15          Q. And Keppel paid bribes equal to  
16 a percentage of the value of the contracts  
17 that it secured with Sete and Petrobras;  
18 right, sir?

19          A. Say that again?

20          Q. Let me read it.

21           And Keppel paid bribes equal to  
22 a percentage of the value of the contracts  
23 that it secured with Sete and Petrobras;  
24 right, sir?

25          A. Yes, that's right.

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2           Q.       Is that your answer?

3           A.       Yes.

4           Q.       And what are the names of the  
5 consulting companies that KOM entered an  
6 agreement with to facilitate and conceal  
7 the payment of bribes relating to Sete?

8           A.       Eagle Do Brazil and Deep Sea  
9 Oil.

10          Q.       And how did the agreements that  
11 KOM executed with Eagle Do Brazil and Deep  
12 Sea Oil conceal their purpose, which was to  
13 facilitate the payment of bribes?

14          A.       For all these project, we  
15 basically pay a percentage of the project  
16 price to Mr. Zwi.

17          Q.       Is that your complete answer?

18          A.       Yes.

19          Q.       And when you refer to a  
20 percentage of the project that was paid to  
21 Mr. Zwi, Z-W-I, are you referring to the  
22 commission fee that Keppel would pay Mr.  
23 Skornicki for his work relating to Sete?

24          A.       That's right.

25          Q.       And how is it that the

1           CONFIDENTIAL - LEONG PENG TAN  
2 commission fee that was paid to Mr. Zwi  
3 concealed the purpose of the agreement  
4 which was to facilitate the payment of  
5 bribes?

6           A.       I wouldn't know that.

7           Q.       You don't know the answer to  
8 that question?

9           A.       I see what the document say,  
10 that it is under the guise of the  
11 consulting agreement.

12          Q.       Is it Keppel's understanding  
13 that the commission fee concealed the fact  
14 that a portion of that fee was intended to  
15 be a bribe payment?

16          A.       As for what the document say, to  
17 facilitate that payment.

18          Q.       Mr. Tan, I'm asking you whether  
19 the commission fee that we just discussed  
20 was intended to conceal the fact that a  
21 portion of that fee was intended to be a  
22 bribe payment.

23          A.       Yes.

24          Q.       Can you turn to page 36 of the  
25 PDF, which is A-14 of the document, and the

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2           Q.       Do you have any information as  
3       to when Keppel negotiated the amount of  
4       bribes it would pay on contracts relating  
5       to Sete or the Rigs Project?

6           A.       I don't know. No information.

7           Q.       Do you have any information as  
8       to when Keppel agreed to pay bribes on  
9       projects relating to Sete or the Rigs  
10      Project?

11          A.       We agreed to pay the consultant  
12      2 percent of commission.

13          Q.       I understand that.

14           My question is, do you have any  
15      information as to the timing of when Keppel  
16      agreed to pay bribes on projects relating  
17      to the Rigs Project or Sete Brazil?

18          A.       I believe it would be third  
19      quarter of 2011.

20          Q.       That's your testimony as to when  
21      Keppel agreed to pay bribes on projects  
22      relating to the Rigs Project as well, sir?

23          A.       No. When we agree on the  
24      commission for the consultant.

25          Q.       That's not a complete sentence.

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2           I'm sorry, I'm having a hard  
3 time understanding what you said.

4           You said, "When we agree on the  
5 commission for the consultant."

6           Can you explain your answer?

7           A.       The time -- third quarter 2011  
8 is the time we agreed to -- on the  
9 percentage of commission to be paid for the  
10 consultant.

11          Q.       Okay. I appreciate that, but my  
12 question is, do you know anything about the  
13 timing of when Keppel agreed to pay bribes,  
14 whether or not it had set the amount of  
15 bribes that it would pay relating to the  
16 Rigs Project for Sete Brazil?

17          A.       No.

18          Q.       If you look at paragraph 72,  
19 there's a reference here to "several  
20 telephone calls." Do you see that in the  
21 third line?

22          A.       Yes.

23          Q.       Do you have any information  
24 about the telephone calls referenced in  
25 paragraph 72 of the Statement of Facts?

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2   in the CEO position of KOM?

3       A.     That's right.

4       Q.     And as the CEO of KOM in 2014,  
5 did Mr. YY Chow hold any chairman positions  
6 at Keppel FELS or BrasFELS?

7       A.     Yes, he's a director.

8       Q.     Director of what?

9       A.     The board.

10      Q.     Director of what?

11      A.     The board of directors. He's  
12 part of the board of directors.

13      Q.     He was part of the board of  
14 directors of Keppel FELS; is that right?

15      A.     That's right. He's one of the  
16 director.

17      Q.     Was he on the board of directors  
18 of BrasFELS, if it had a board?

19      A.     Yes.

20      Q.     Thank you.

21           And Mr. Tan, do you have any  
22 doubt that KOM Executive 1 referenced in  
23 the DPA is CH Tong and KOM Executive 3 is  
24 YY Chow based on everything you did to  
25 prepare for this deposition and looking at

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2 KOM Executive 5 is.

3           A.        Which part of that DPA again?

4 Sorry.

5           Q.        Paragraph 75.

6           A.        Yes.

7           Q.        Who is KOM Executive 5?

8           A.        As per the e-mail, Tommy Sam.

9           Q.        And what is his position at this  
10 time?

11          A.        Tommy Sam -- he's the CFO of  
12 BrasFELS.

13          Q.        Was he the CFO of BrasFELS  
14 between 2010 and 2012? I understand it  
15 went longer, but does that cover that time  
16 period?

17          A.        Sorry -- you're asking me 2010  
18 to 2012, right?

19          Q.        Yes.

20          A.        Yes, I think so.

21          Q.        And how long did he remain the  
22 CFO of Brasfels?

23          A.        I think it's up to about around  
24 2015.

25          Q.        And did he hold any positions at

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2 BY MS. PAK:

3 Q. Mr. Tan, can you please answer  
4 the question?

5 A. Sorry, can you just repeat the  
6 question again?

7 Q. What do you understand the Rigs  
8 Project to mean with respect to Petrobras's  
9 need for 28 offshore drilling rig units?

10 A. Petrobras has announced that  
11 they needed drilling rigs for the offshore  
12 exploration.

13 Q. And do you recall around when  
14 that announcement was made?

15 A. 2009.

16 Q. Okay. And when did Keppel first  
17 learn about the Rigs Project?

18 A. I think it's 2009.

19 Q. How did Keppel learn about the  
20 Rigs Project?

21 A. The announcement for the rig.

22 Q. Did Keppel receive information  
23 about the Rigs Project, outside of the  
24 announcement, directly from employees of  
25 Petrobras?

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2           A.       No.

3           Q.       Your testimony is no?

4           A.       I don't know, I don't know.

5           Q.       Okay. I understand.

6                   In or around 2010, did Keppel  
7 submit any bids directly to Petrobras  
8 entity to build rigs in connection with the  
9 Rigs Project?

10          A.       Yes.

11          Q.       What do you know about the bid  
12 that Keppel submitted directly to Petrobras  
13 entity in connection with the Rigs Project?

14          A.       We have submitted to build two  
15 semi-submersible and one -- and seven  
16 drillship. We submitted -- sorry, let me  
17 rephrase that.

18                   Petrobras has turned out three  
19 bids, of which two of the bids is for them  
20 to build the units, and for these two bids  
21 we have bidden directly to Petrobras. And  
22 one of the bid is for two semi-submersible  
23 and the other bid is for seven drillship.

24          Q.       And when did Keppel first submit  
25 its bid in connection with the Rigs

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2 Project?

3 A. You're referring to the  
4 Petrobras bid?

5 Q. Yes.

6 A. 2010.

7 Q. Do you know around when in 2010?

8 A. Oh, I think it's in -- I -- I  
9 can only remember I think it's somewhere,  
10 sometime in Q2.

11 Q. In Q2. Okay.

12 And which Keppel entity  
13 submitted that bid, do you know?

14 A. The BrasFELS.

15 Q. And do you know, I think you  
16 testified to this, but just to be clear,  
17 how many rigs did Keppel, through BrasFELS,  
18 bid for in 2010 in connection with the Rigs  
19 Project?

20 A. I think it to be very clear that  
21 rig here, there's actually three bids, so  
22 can you be very specific when you ask for  
23 the bids.

24 Q. Okay. So with respect to the  
25 two rigs, how many rigs did Keppel bid for

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2   in 2010?

3           A.       Two.

4           Q.       And with respect to the lots of  
5   seven rigs, how many bids did Keppel -- how  
6   many rigs did Keppel bid for in --

7           A.       Seven, seven.

8           Q.       Okay.

9           MS. PAK: I'm going to mark an  
10           exhibit.

11          BY MS. PAK:

12          Q.       And were you involved, Mr. Tan,  
13   at all, with the two bids that you just  
14   referred to that were submitted by BrasFELS  
15   in 2010?

16          A.       Yes, I'm involved as mechanical  
17   guy.

18          Q.       So earlier I had asked you if  
19   you had been involved in any projects  
20   relating to Petrobras before 2011 and you  
21   had said you did not, I believe.

22           But this is a bid that you're  
23   saying that you were involved with;  
24   correct?

25          A.       Correct. Project and bids is

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2           A.       We also lost. We didn't get it.

3           Q.       And were the results of the bids  
4 made public?

5           A.       I think so, yes. I think so,  
6 yes?

7           Q.       And in this time period,  
8 June 2010, Keppel Offshore & Marine was  
9 paying bribes in connection with other  
10 projects it secured with Petrobras;  
11 correct?

12          A.       As per what the DPA say.

13          Q.       Did Keppel Offshore & Marine  
14 know in June 2010, when it submitted bids  
15 to Petrobras Netherlands for the  
16 construction of seven drilling units that  
17 it would pay bribes or kickbacks on any  
18 contracts that it was awarded?

19          A.       Can you repeat the last part of  
20 it?

21          Q.       Did Keppel Offshore & Marine  
22 know in June 2010, when it submitted bids  
23 to Petrobras Netherlands for the  
24 construction of seven drilling units, that  
25 it would pay bribes or kickbacks on any

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2 contracts that it was awarded?

3           A.       I guess as per the DPA, as this  
4    bid is also going to Zwi, I guess so.

5 Q. Okay. Sorry, I was just waiting  
6 for the transcript.

7 MS. PAK: All right. I'm  
8 marking another exhibit.

I'm sorry, I'm looking at his  
answer that he provided. I think he  
made a reference to "Zwi," which is  
Z-W-I.

13 BY MS. PAK:

Q. Is that correct, Mr. Tan?

15 A. That's right.

Q. Thank you.

17 MS. PAK: I'm introducing  
18 another exhibit.

19 (Plaintiffs' Exhibit 83  
20 for identification, one-page document,  
21 e-mail thread, production numbers  
22 KEPPEL00279564, shown to the witness.)

23 BY MS. PAK:

24 Q. Mr. Tan, let me know when you  
25 see Plaintiffs' Exhibit 83.

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2           Q.        Okay. And just so we have a  
3 clear record, you said "we have a  
4 contingency period" for what?

5           A.        For project execution risk.

6                   For --

7           Q.        For project execution risk.

8                   Is that what you said?

9           A.        That's right.

10          Q.        Okay. Thank you.

11                  And do you know whether Mr. Choo  
12 was ever found to have been involved in any  
13 bribery scheme relating to Sete Brazil?

14          A.        Again, I think with his  
15 departure around that time, I guess so.

16          Q.        Okay. And if you look at the  
17 top e-mail, Mr. Choo again is writing to  
18 executives of KOM or KOM subsidiaries, and  
19 it's dated October 5, 2010, again, and he  
20 writes:

21                  "It is a pity, as our yard in  
22 Angara is executing well, very well."

23                  Do you see that, sir?

24          A.        Yes.

25          Q.        And the yard in Angara refers to

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2           A.       How important...all I can say is  
3       that Keppel is well-known, is global -- is  
4       globally known, as far as the best rig  
5       builder, probably.

6           And for this particular bid, we  
7       see that as we are technically competent to  
8       actually beat and build for this 28 units,  
9       so we should bid, we should bid for it.

10      Why not.

11      Q.       I'm sorry, I didn't mean to cut  
12     you off. Was that the end of your answer?

13      A.       Yes.

14      Q.       Do you know if there are a  
15     certain number of seats reserved for  
16     executives of KOM -- of Keppel's board on  
17     KOM's board of directors, generally?

18      A.       I know that normally the CEO of  
19     Keppel Corp. and the CFO of Keppel Corp.'s  
20     seat on the board of KOM.

21      Q.       And does the CEO of KOM  
22     typically sit on the board of KOM's  
23     subsidiaries?

24      A.       Yes. The -- yes.

25      Q.       Okay. And after Mr. CH Tong's

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2 tenure as the CEO of KOM, did he continue  
3 to hold any board position on any Keppel  
4 entity?

5           A. Not that I can remember.

6           Q. All right. And when did Keppel  
7 first learn about Petrobras's plan to  
8 create an entity called Sete?

9           A. I'm sorry, can you repeat that  
10 again?

11          Q. Yes. When did Keppel first  
12 learn about Petrobras's plan to create an  
13 entity called Sete?

14          A. I think Keppel came to know  
15 about Sete because the chief put us to  
16 submit a proposal to build six  
17 semi-submersible -- seven.

18          Q. Can you repeat your answer,  
19 please?

20          A. Sorry. We came to know Sete  
21 Brazil when we have been with Petrobras  
22 Sete Brazil to submit a proposal for  
23 semi-submersible.

24          Q. Is it your testimony that KOM  
25 did not know that Sete existed until it

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going to contract for the remaining 21 rigs  
as well as seven rigs with EAS, Keppel  
understood that Sete would require some  
form of equity financing; right, sir?

6           A.       No, I -- Sete will require  
7 financing.

8           Q.       Okay.  So then the question is,  
9 when did Keppel first learn that Sete would  
10 require equity financing?

#### A. Equity financing...

12 I think it's time when I think  
13 we believe we have spoken about potentially  
14 having a joint venture for one of the  
15 units.

16 Q. Okay. We'll get to that later,  
17 the joint venture.

18 MS. PAK: So I've introduced a  
19 document that was previously marked as  
20 Plaintiffs' Exhibit 6

21                   It's an e-mail chain Bates  
22 stamped KEPPEL00547339 to 340, 3-4-0.  
23                   (Previously marked  
24 Plaintiffs' Exhibit 6 for  
25 identification shown to the witness.)

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2 Do you see that, sir?

3 A. Yes.

4 Q. So at least as of the date of  
5 this e-mail, January 9, 2011, Keppel  
6 Offshore & Marine was informed that Sete  
7 would be funded, at least in part, by  
8 private entities; right, sir?

9 A. Based on this e-mail, yes.

10 Q. Okay. And if you look at  
11 paragraph 1(e), it says:

12 "Petrobras, through Sete  
13 Enterprise, would like to see the following  
14 award combinations," and next to "Keppel,"  
15 which is in subparagraph 2, it says:

16 "Four units of semis at between  
17 USD 750m to 720m/unit."

18 Do you see that, sir?

19 A. Yes.

20 Q. And why is Petrobras -- I'm  
21 sorry, strike that.

22 How did Petrobras know what  
23 award combinations it wanted through Sete  
24 with respect to how many units each  
25 shipyard would build in January 2011?

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2 e-mail and say this must be the case.

3 Q.       Right. I understand.

4           But this was a topic you  
5 prepared for; right, Mr. Tan?

6 A.       Yes.

7 Q.       All right.

8           If you look at the subject line,  
9 what is "DSS38E"?

10          A.       That's our design for the  
11 semi-submersible.

12          Q.       And this is the same design for  
13 the same semi-submersible that Keppel  
14 included in its proposal to Petrobras  
15 Netherlands in 2010; right, sir?

16          A.       It's the same design, yes.

17          Q.       And if you look at the e-mail  
18 above that --

19          A.       I'd like to correct that.

20           It's the same design that we  
21 have proposed for the two DRU.

22          Q.       Okay. And if you look at the  
23 e-mail above that, you write back on  
24 Tuesday, July 5, 2011, and you say:

25           "Te~~y~~, as spoken, pls relook into

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2       the following."

3           And you list:

4           "1. For BrasFELS, please use  
5       the KPI that we have previously based on in  
6       last year submission."

7           2, you say: "Increase the  
8       commission to 2 percent."

9           Do you see that, sir?

10          A. Yes.

11          Q. And this commission that you're  
12       referring to in this e-mail is a reference  
13       to the commission that Keppel was going to  
14       pay to Mr. Zwi Skornicki; right, sir?

15          A. Yes.

16          Q. And earlier you stated that the  
17       commission fee that was set for Mr. Zwi  
18       Skornicki was 2 percent; right, sir?

19          A. No. I say we make some  
20       assumption of that.

21          Q. You testified earlier --

22          A. Just earlier, yes.

23          Q. Yes, okay.

24          A. (Inaudible) it was for Zwi for  
25       the project is 2 percent, right.

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2           A.       I can't remember who are all of  
3 them because it's already 11 years, but I  
4 will assume that is the bidding team.

5           Q.       So it's your testimony that in  
6 July 5, 2011, the increase in the  
7 commission for 2 percent was an assumed  
8 commission fee?

9           A.       It's the assumed commission fee,  
10 yes.

11          Q.       And would it be typical that a  
12 team would assume a commission fee on a  
13 contract that's worth hundreds of millions  
14 of dollars each?

15          A.       Uh-huh.

16          Q.       Without authorization from any  
17 executive at KOM?

18          A.       First of all, this is a cost  
19 estimate, okay, so it's a cost estimate so  
20 it is assumption. So we assume 2 percent  
21 in the cost estimate and that's the reason  
22 why you will see that the e-mail is from --  
23 to YY stating that this is what we have  
24 costed for.

25          Q.       So Mr. YY Chow is in this

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1           CONFIDENTIAL - LEONG PENG TAN  
2 e-mail. Was he part of the team that  
3 assumed that the increase in the commission  
4 fee would be to 2 percent?

5           A. I think so because he's all part  
6 of bidding team.

7           Q. So he was involved in the  
8 decision-making in increasing the  
9 commission fee to 2 percent at this time  
10 period; right, sir?

11          A. I really can't recall, to be  
12 very frank.

13          Q. You don't know whether or not  
14 Mr. YY Chow was involved in the decision to  
15 increase the commission to 2 percent in or  
16 around this time?

17          A. For us, there's no decision, as  
18 I tell you. This just an estimate. It's  
19 just like how I estimate -- I estimate this  
20 to be like this, I estimate that to be like  
21 this. So we estimate the commission to be  
22 2 percent.

23          Q. But you didn't just estimate --

24          A. There's no decision to be made.

25          It's just that if you estimate the

1 CONFIDENTIAL - LEONG PENG TAN

2 Q. What is a "speculation semi"?

3 A. Sorry, can you repeat again?

4 Q. What is "speculation semi"?

5 A. "Speculation semi."

6 Q. Yes.

7 A. I don't know. I think you have  
8 to ask who is the one, Gerard, yes, Gerard.

9 Q. Well, no, I'm asking you --

10 A. (Inaudible).

11 Q. Let me finish my question.

12 A. Yes.

13 Q. I'm asking you, as Keppel's  
14 corporate representative, what is the  
15 "speculation semi" referred to in this  
16 e-mail.

17 A. I will guess that this  
18 speculation semi is referring to one of the  
19 first unit -- the first unit that we  
20 eventually wanted to speculate.

21 (Reporter clarification.)

22 A. Sorry. The speculation -- My  
23 guess is speculation semi is referring to  
24 the first unit of the semi that has been  
25 requested by Sete Brazil.

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2 A. Zwi is our agent and Bruno is  
3 brought along by Zwi.

4 Q. Okay. So at this time Mr.  
5 Skornicki was already functioning as an  
6 agent for KOM with respect to Sete Brazil  
7 projects; is that right, sir?

8 A. That's right.

9 Q. And at the bottom it says:  
10 "Barusco went on to suggest that  
11 the format for the proposal should include  
12 the following points."

13 Do you see that, sir?

14 A. Yes.

15 Q. And is it Keppel's understanding  
16 that Keppel and Sete were working together  
17 at this point to submit Keppel's bid to  
18 Sete for a total of 6 units?

19 A. Sorry, can you repeat your  
20 question again?

21 (Requested portion of record  
22 read.)

23 A. At this point, it is Sete's  
24 request for us to submit a total price for  
25 six units.

CONFIDENTIAL - LEONG PENG TAN

a rig; right, sir?

A. That's right.

Q . All right .

MS. PAK: I'm introducing another document.

(Previously marked  
Exhibit 17 for identification shown to  
the witness.)

MS. PAK: I have introduced a document that was previously marked as Plaintiffs' Exhibit 17. This is a document Bates stamped KEPPEL00490690 to 768.

BY MS. PAK:

O. Let me know when you see it.

A. Yes.

Q. This is the EPC contract between URCA Drilling B.V. and Fernvale and is dated as of December 16, 2011.

Do you see that, sir?

A. Yes.

Q. And URCA is the special purpose entity that was formed by Sete: right, sir?

A. That's right.

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
Case No. 18-cv-01047 (PGG)

-----x

EIG ENERGY FUND XIV, L.P.,  
EIG ENERGY FUND XIV-A, L.P.,  
EIG ENERGY FUND XIV-B, L.P.,  
EIG ENERGY FUND XIV (CAYMAN), L.P.,  
EIG ENERGY FUND XV, L.P.,  
EIG ENERGY FUND XV-A, L.P.  
EIG ENERGY FUND XV-B, L.P.  
EIG ENERGY FUND XV (CAYMAN), L.P.

Plaintiffs  
-against-  
KEPPEL OFFSHORE & MARINE LTD.,  
Defendant.

\* \* \* CONFIDENTIAL \* \* \*

VOLUME II

VIRTUAL ZOOM DEPOSITION

LEONG PENG TAN

JULY 16 2021

**R e p o r t e d   B y :**  
**Erica Ruggieri, CSR, RPR**

1 TAN - CONFIDENTIAL

2 Offshore & Marine first considered  
3 making an early -- an equity  
4 investment in one of the  
5 semi-submersibles owned by Sete?

6 A. This is the time as far as  
7 I can recollect. This is the time.

8 Q. Understood. And did Keppel  
9 conduct any due diligence in Sete in  
10 connection with its potential  
11 investment in Sete's rigs?

12 A. For the investing in the  
13 JV?

14 Q. Yes.

15 A. Yes. We had done some due  
16 diligence. First of all, the  
17 underlying reason why Keppel is  
18 considering to invest is that Sete  
19 Brasil has -- has spoken to us and  
20 say that there's potentially they  
21 want to spec view the first unit.  
22 And to spec view the first unit they  
23 will -- in this way they will  
24 actually lock in the delivery date  
25 meaning when they are actually

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2 chartering the vessel or the rig to  
3 Petrobras, okay, the schedule is  
4 more guaranteed and there's  
5 potentially even early delivery  
6 bonus.

7 Q. And did -- oh, I'm sorry,  
8 go on.

9 A. And with that that is the  
10 reason why Keppel have -- has  
11 considered investing in the first  
12 unit for Sete Brasil -- Sete Brasil,  
13 sorry.

14 Q. And when you say that  
15 someone -- that Sete Brasil had  
16 spoken to Keppel, are you referring  
17 to Mr. Barusco?

18 A. That's right.

19 Q. And can you describe the  
20 kinds of due diligence that Keppel  
21 conducted in connection with its  
22 potential equity investment in  
23 Sete's rig?

24 A. I'm personally not involved  
25 in the due diligence but based on

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1 TAN - CONFIDENTIAL

2 some of the document I see I  
3 understand that they have gone  
4 through and look at the equity  
5 structure, okay. And with that --  
6 and who are the potential JV partner  
7 that wanted to invest in the first  
8 unit, okay. And, of course, all  
9 this is on the basis that  
10 subsequently the unit will be  
11 chartered to Petrobras.

12 Q. Do you know whether Keppel  
13 received any -- received or reviewed  
14 any investor presentations about  
15 Sete or the rigs project in  
16 connection with its due diligence on  
17 Sete Brasil?

18 A. No. I can't recall that.

19 MS. PAK: Okay. I'm marking a  
20 document. Okay, I have marked as  
21 Plaintiff's Exhibit 91 an e-mail  
22 chain that's been translated and  
23 Bates stamped Keppel 00556336 to  
24 340.

25 (Exhibit 91, E-mail from Tommy

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2 Do you see that, sir?

3 A. Yes.

4 Q. And it also shows that BNDS  
5 was expected to provide the vast  
6 majority of the senior debt for each  
7 rig, right, sir?

8 A. Yes. That's what the slide  
9 say.

10 Q. And if you turn to page  
11 3333 and 34, which is Bates stamped  
12 442 and 443, that presentation  
13 provides a risk matrix for the Sete  
14 investment.

15 Do you see that, sir?

16 A. Risk matrix?

17 Q. Risk matrix, yes.

18 A. Okay.

19 Q. Does this refresh your  
20 recollection as to whether or not  
21 KOM received investor presentations  
22 in connection with its due diligence  
23 of the Sete Brasil investment?

24 A. As I mention, I'm not  
25 involved in the due diligence so I

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2 Q. Under financiers the first  
3 line in the box states, "BNDES will  
4 have an important and leading role  
5 for financing rigs construction,  
6 taking most of the long-term debt."

7 Do you see that, sir?

8 Do you see that, sir?

9 A. Yes.

10 Q. What was Keppel's  
11 understanding in 2011 with respect  
12 to BNDES's role in the rigs project  
13 for Sete Brasil?

14 A. Our understanding is that  
15 BNDES will be -- will be financing a  
16 large portion of it and they will be  
17 just like what has been said here is  
18 for most of the long-term debt.

19 Q. Okay. And do you agree  
20 having reviewed both now Plaintiff's  
21 Exhibit 91, 92 and 93 that Keppel  
22 received investor presentations in  
23 connection with its due diligence of  
24 the Sete Brasil project?

25 MR. BARBUR: Objection. You

1 TAN - CONFIDENTIAL

2 the shipyard."

3 Do you see that, sir?

4 A. Yes.

5 Q. At this point in time,  
6 August 2011, is Mr. Y.Y. Chow  
7 already the COO of KOM or is he  
8 still the managing director at KOM?

9 A. He's the COO.

10 Q. And do you know whether or  
11 not anyone from Keppel made any  
12 presentation to the visitors that  
13 visited BrasFELS in August 2011?

14 A. I don't know. But normally  
15 a yard tour would typically have a  
16 presentation. Normally a yard tour  
17 that will be a presentation.

18 Q. Mr. Tan, do you have any  
19 information as to the substance of  
20 any presentation that was given to  
21 EIG and the other visitors during  
22 the August 2011 BrasFELS visit to  
23 the shipyard.

24 A. No.

25 Q. Do you know who at Keppel

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1 TAN - CONFIDENTIAL

2 attended the site visit that was  
3 made by EIG to the BrasFELS shipyard  
4 in August 2011?

5 A. I don't know.

6 Q. Did anyone from Keppel  
7 authorize the visit?

8 A. Authorize the visit.

9 MR. BARBUR: By Keppel do you  
10 mean as distinct from BrasFELS?

11 Q. Did anyone from any Keppel  
12 entity authorize this visit?

13 A. Normally any yard visit,  
14 the authorization would be by the  
15 president of the yard.

16 Q. And at that time that would  
17 be K.C. Kwok, correct?

18 A. That's right.

19 MS. PAK: I'm marking another  
20 exhibit. I have marked as  
21 Plaintiff's Exhibit 95 an e-mail  
22 chain that's been translated. The  
23 Bates number is Keppel 0001126 to  
24 128.

25 (Exhibit 95, E-mail from Carla

1                   TAN - CONFIDENTIAL

2                   A. Yes, that's the e-mail sent  
3 to them.

4                   Q. And what was Keppel's  
5 understanding as to why Sete was  
6 raising additional funds in early  
7 2012?

8                   A. Understanding the 28 drill  
9 rigs need financing.

10                  MS. PAK: He said that the 28  
11 drill rigs need financing.

12                  Q. Is that correct, Tan --  
13 Mr. Tan?

14                  A. That's correct.

15                  Q. And Sete was raising funds  
16 in order to finance a second round  
17 of bids for the 21 remaining drill  
18 rig units, correct?

19                  A. I don't know.

20                  Q. You don't know. Okay.

21                  A. Yeah.

22                  Q. Were you aware that in  
23 March 2012, the same month that this  
24 e-mail was sent to senior executives  
25 at KOM, that EIG made another visit

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2 Keppel 00012940 to 941, marked for  
3 identification, as of this date.)

4 Q. Let me know when you see  
5 it.

6 MR. BARBUR: I don't see a  
7 translation. I see an e-mail in  
8 Portuguese.

9 A. I see the exhibit but what  
10 Peter say is in Portuguese.

11 Q. All right. So we will come  
12 back to this. The document I have  
13 is a translation. Let me see what  
14 you see. All right, fine. We can  
15 come back to it.

16 Mr. Tan, did KOM consider  
17 Sete's ability to secure equity  
18 financing in or around March 2012 to  
19 be in Keppel's own interest?

20 A. Be Keppel what? Sorry.  
21 The last part.

22 Q. Sure. Did KOM consider  
23 Sete's ability to secure equity  
24 financing in or around March 2012 to  
25 be a benefit to Keppel's own

1 TAN - CONFIDENTIAL

2 interest?

3 A. I would say the ability --  
4 since we had for this time the first  
5 unit of the six semi then for Sete  
6 Brasil to get financing so as to pay  
7 us, okay. They will be the interest  
8 party.

9 Q. So Keppel understood that  
10 any funding that Sete received from  
11 investors would help Sete pay for  
12 the construction of additional rigs  
13 by Keppel and the other shipyards,  
14 correct?

15 A. The projects all require  
16 financing.

17 Q. Thank you.

18 MS. PAK: I have marked as  
19 Plaintiffs' Exhibit 101 an e-mail  
20 dated August 7, 2012, with its  
21 attachment. It is Bates stamped  
22 Keppel 00453866 to 869.

23 (Exhibit 101, E-mail 8/7/2012,  
24 with attachment, Bates Keppel  
25 00453866 to 869, marked for

1 TAN - CONFIDENTIAL

2 question.

3 Q. Do you know what the  
4 general sentiment of the lenders was  
5 following the meeting?

6 A. I don't know.

7 Q. And you did not receive any  
8 prep material that would provide you  
9 that information, Mr. Tan?

10 A. I don't recall.

11 Q. Did KOM consider Sete's  
12 ability to secure long-term  
13 financing to be necessary in order  
14 for Sete to complete the  
15 construction of the 28 drilling rig  
16 units?

17 A. All these drilling -- this  
18 drilling rig program would need  
19 financing to complete.

20 Q. Did KOM consider Sete's  
21 ability to secure long-term  
22 financing to be necessary to  
23 complete the construction of its  
24 rigs?

25 A. Yeah, the projects need

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1 TAN - CONFIDENTIAL

2 financing to complete.

3 MS. PAK: I think he said,  
4 yeah, the projects need financing  
5 to complete.

6 Q. Is that right, Mr. Tan?

7 A. Yes.

8 Q. I just want to clean up the  
9 record. Did KOM consider Sete's  
10 ability to secure long-term  
11 financing to be necessary to  
12 complete the construction of its  
13 rigs.

14 A. Let me say again for the  
15 Sete project, the rigs project there  
16 would be financing to complete.

17 Q. Okay. Thank you.

18 MR. BARBUR: We have been  
19 going almost two hours. Can we  
20 take a break at a convenient point?

21 MS. PAK: Now is fine with me.

22 MR. BARBUR: Okay. Let's take  
23 ten minutes.

24 THE VIDEOGRAPHER: The time is  
25 7:57. We are off the record.

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2 us."

3 Do you see that, sir?

4 A. Yes.

5 Q. Having read this e-mail now  
6 were there executives at KOM who  
7 expressed concern about Sete's  
8 ability to secure long-term  
9 financing with BNDES after  
10 Mr. Barusco's plea agreements were  
11 disclosed?

12 A. Yes, as to what the e-mail  
13 say.

14 Q. And if you turn to the  
15 first page of this e-mail Ms. Lee on  
16 February 7, 2015, writes, "Dear  
17 CEO/KCL and CEO/KOM, Valor and  
18 Upstream have reported that the  
19 signing of financing contracts,  
20 which was scheduled to take place in  
21 Brazil today (6 February) has been  
22 suspended."

23 Do you see that, sir?

24 A. Yes.

25 Q. And it goes on to say, "On

1 TAN - CONFIDENTIAL

2 as --

3 A. The financing -- sorry.

4 The financing agreement has been  
5 suspended.

6 Q. And the financing  
7 agreements, the signing of the  
8 financing agreements was suspended  
9 due to the fact that Mr. Barusco's  
10 plea agreements had been made public  
11 the day before, right, sir?

12 A. Is it on the 6th? I  
13 can't... I don't know the timeline  
14 but of the 7 February that's what  
15 has been reported.

16 Q. The signing of the  
17 financing contracts were suspended  
18 due to the fact that Mr. Barusco's  
19 plea agreements had been made  
20 public, right, sir?

21 A. Yes, regards to the  
22 operation Lava Jato.

23 Q. Okay. That's not a full  
24 sentence so I honestly just am not  
25 sure what the answer is.

1 TAN - CONFIDENTIAL

2 A. That's right.

3 Q. Who asked you to join  
4 Fernvale?

5 A. Mr. Y.Y. Chow.

6 Q. And who did you report to  
7 at Fernvale?

8 A. I reported to the project  
9 director.

10 Q. And who was the project  
11 director?

12 A. Yan Naing Myint.

13 Q. You should just spell it  
14 for her if you can, Mr. Tan.

15 A. I can't remember the  
16 spelling. Let me check. I don't  
17 know where they got.

18 Q. Is it Shan Ming Chow, is  
19 that what you said?

20 A. No, no.

21 Q. Maybe we can correct that  
22 during a break.

23 Did you play any role in  
24 Keppel's submission of bids with  
25 respect to the rigs project?

1 TAN - CONFIDENTIAL

2 history. Focus is needed and  
3 believe this had not been easy with  
4 the huge workload that we currently  
5 have. Believe it is (lucky)" in  
6 quotation "for us this specification  
7 had not deviate much from the  
8 previous."

9 Do you see that, sir?

10 A. Yes.

11 Q. Why is the word "lucky" in  
12 parentheses?

13 A. I don't recall.

14 Q. And you considered Keppel's  
15 contract with Sete to be the biggest  
16 contract that Keppel had ever  
17 entered into in its history,  
18 correct?

19 A. Yes. Actually I said that  
20 because at that point in time we  
21 think there is a single contract  
22 with six-unit from that perspective,  
23 yes.

24 Q. And yesterday I believe you  
25 testified that you didn't care

1 TAN - CONFIDENTIAL

2 contracts that Fernvale entered into  
3 with Mr. Skornicki's companies at or  
4 around the time they were executed?

5 A. I can't recall that.

6 Q. Did you have any specific  
7 role in 2012 with respect to the  
8 fees that were due to Mr. Skornicki  
9 pursuant to Fernvale's contracts  
10 with Deepsea and Eagle?

11 A. Yes. I'm part of the  
12 approving -- part of the approving  
13 process.

14 Q. You said you were part of  
15 the approving process, right?

16 A. Yes, yes.

17 Q. The individual that you  
18 named as your boss at Fernvale, was  
19 he also part of the approving  
20 process?

21 A. Yes.

22 Q. Who else was part of the  
23 approving process for the fees that  
24 were paid to Mr. Skornicki pursuant  
25 to Fernvale's contracts with Eagle

1 TAN - CONFIDENTIAL

2 and Deepsea?

3 A. There would be others from  
4 finance and then there will also be  
5 the CEO.

6 Q. CEO of which Keppel entity?

7 A. KOM.

8 Q. Did you serve as an  
9 intermediary between Fernvale and  
10 Mr. Skornicki with respect to  
11 discussions or any questions  
12 Mr. Skornicki had about his  
13 commission payments due from  
14 Fernvale?

15 A. Can you repeat that again?

16 Q. I said did you serve as an  
17 intermediary between Fernvale and  
18 Mr. Skornicki with respect to any  
19 discussions or questions  
20 Mr. Skornicki had about commission  
21 payments due to him from Fernvale?

22 MR. BARBUR: Object to the  
23 term "intermediary" as ambiguous.

24 A. Yeah. What do you mean by  
25 intermediary?

1 TAN - CONFIDENTIAL

2 Keppel received, correct?

3 A. That's right.

4 Q. And the funds that Keppel  
5 used to pay Mr. Skornicki were  
6 calculated on and came directly from  
7 SeteBrasil, correct?

8 A. Yes.

9 Q. Why then did you also need  
10 to provide him with the description  
11 that he should use for the invoices  
12 that he sent to Keppel?

13 A. Because the payment from  
14 SeteBrasil, milestone payment.

15 Okay. Meaning there is certain  
16 event that we have achieved or occur  
17 during the project, that's why there  
18 is the need of a description. Okay.

19 So take for example there is a  
20 milestone payment or strike steel.

21 Okay. So I also had to let Mr. Zwi  
22 know that this, I'm paying him -- we  
23 are -- the company is paying him for  
24 that particular milestone payment.

25 So you need a description for that.

1 TAN - CONFIDENTIAL

2 Q. Did Mr. Tong authorize  
3 every payment that was made  
4 Mr. Skornicki pursuant to Fernvale's  
5 contract with Eagle or Deepsea Oil?

6 A. I believe so.

7 Q. And did you have an  
8 understanding at this time as to why  
9 Mr. Tong had instructed that all  
10 agent payments should be endorsed by  
11 him?

12 A. This instruction is  
13 actually passed down by finance. As  
14 to why, I don't know.

15 Q. And Mr. Zwi writes back, "I  
16 am not jumping on you but you must  
17 understand I also have commitments  
18 and my people after eight months for  
19 the first unit and more than four  
20 months for the remaining, nothing  
21 happen, just promises and asking  
22 help. They do not believe that I  
23 did not receive and it is looking it  
24 is with me and I do not want  
25 transfer."